

**STATE OF FLORIDA  
CHARTER SCHOOL APPEAL COMMISSION**

AMERICAN ACADEMY OF PALM BEACH  
K-8 CHARTER SCHOOL,

Appellant/Applicant,

v.

DOE No. 2024-4250

THE SCHOOL BOARD OF  
PALM BEACH COUNTY, FLORIDA,

Appellee/School Board.

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**RECOMMENDATION OF THE CHARTER SCHOOL APPEAL COMMISSION**

American Academy of Palm Beach K-8 Charter School (“American Academy” or “Applicant”) filed an application to open a charter school that was denied by the School Board of Palm Beach County (“School Board”). The Applicant challenged the School’s Board’s decision, and the Charter School Appeal Commission (“Commission”) held a hearing on March 13, 2025. Commission members reviewed the appeal filed by the Applicant, the response filed by the School Board, and supporting documentation, and heard argument and explanation by both parties at the hearing. Based on the hearing and review of the record, the Commission recommends overturning the School Board’s denial of the Applicant’s charter school application.

**I. Process and Standard of Review**

Section 1002.33(6)(b)2.a., Fla Stat., provides that if a school board denies a charter school application, the school board must “articulate in writing the specific reasons, based upon good cause, supporting its denial of the application.” The specific reasons for denial must be based upon the statutory requirements for charter school applications, Sch. Bd. of Osceola County v. UCP of Central Fla., 905 So. 2d 909 (Fla. 5th DCA 2005), and must constitute good cause for denial. Sch. Bd. of Volusia County v. Academies of Excellence, Inc., 974 So. 2d 1186 (Fla. 5th DCA 2008).

If an application for a charter school is denied, the applicant can challenge that denial before the State Board of Education. For each appeal, the Commission is made up of an evenly split panel, with half the members representing currently operating charter schools and half representing sponsors. The Commissioner of Education, or his designee, serves as chair. The Commission conducts an impartial review and provides a recommendation to the State Board, which makes the final decision to uphold or overturn the decision of the school board. The decision of the State Board, and this recommendation by the Commission, must be based upon competent, substantial evidence. Imhotep-Nguzo Saba Charter Sch. v. Dept. of Ed., 947 So. 2d 1279 (Fla. 4th DCA 2007). The Commission is not limited to documents contained in the record on appeal, and may consider additional information and can ask clarifying questions in making its decision. School Bd. of Volusia County v. Florida East Coast Charter School, 312 So. 3d 158 (Fla. 5th DCA 2021). Thus,

the review of the school board's decision is not a typical appellate review, which is limited to information considered below, and is instead a continuation of the administrative review process. The recommendation to the State Board must include a fact-based justification. Sch. Bd. of Palm Beach County v. Fla. Charter Ed. Found., Inc., 213 So. 3d 356 (Fla. 4th DCA 2017).

## **II. Background**

Charter schools may be created when an individual, group of parents or teachers, a municipality, or legal entity submits an application to a sponsor, which in this case is a school district. § 1002.33(3)(a), Fla. Stat. Applicants must complete the Model Florida Charter School Application, which contains descriptions of the applicant's educational, operational, and financial plans. Fla. Admin. Code R. 6A-6.0786. After the application is filed, the school board can request applicants participate in a capacity interview, where applicants can explain their plan, demonstrate their capacity to open and maintain a high-quality charter school, and answer questions.

A school board must review all charter school applications using the Evaluation Instrument developed by the Department. Fla. Admin. Code R. 6A-6.0786. The Evaluation Instrument incorporates the statutory requirements for a charter school application and provides three main areas for evaluation of the application: Education Plan, Organizational Plan, and Business Plan. After the Evaluation Instrument is complete, the school board votes to approve or deny the application. If approved, the school district and the applicant execute a charter agreement, which functions as a contract between the charter school governing board and the district (sponsor). This agreement details the terms and conditions for the school's operation. § 1002.33(7), Fla. Stat. If denied, the school district must articulate in writing the specific reasons for denial, based upon good cause, and provide a copy to the applicant and the Department along with the supporting documentation. This is commonly referred to as the "denial letter."

A sponsor must approve or deny an application no later than 90 days after the application is received (unless the sponsor and the applicant agree in writing to a postponement). In addition to challenging a denial of an application by a school board, if the sponsor fails to act on the application, the applicant may request review by the State Board of Education. In that case, the application is reviewed by the Commission, which makes a recommendation to the State Board of Education. §§ 1002.33(6)(b)2.a. and 1002.33(6)(c), Fla. Stat.

## **III. School Board's Review of the Application**

American Academy filed an Application with the School Board of Palm Beach County on April 4, 2024, seeking to open a new K-8 school with a specialized programs in arts, sports, and classical education. The classical education portion will focus on Spanish language development.

The Application was reviewed by district reviewers with expertise in the different subject matter areas of the sections they reviewed. The district used the Evaluation Instrument via a computer program called Charter Tools. Following that review, representatives from American Academy met with district staff on July 31, 2024, to discuss deficiencies in the Application found by the district reviewers. At that meeting, and in subsequent correspondence, the Applicant was given the opportunity to withdraw the application, revise the sections deemed deficient, and

resubmit it, but did not do so. The Application was considered and denied by the School Board of Palm Beach County at its Special Meeting of the Board on September 4, 2024. The Applicant was provided notice of and attended the meeting. The Superintendent set forth the reasons for denial in a letter dated September 13, 2024, and the Applicant timely filed this appeal.

#### **IV. Fact Finding and Analysis**

##### **A. Issue One: Impact of the 90-Day Timeline**

The Applicant argues that because the School Board did not act on its Application within 90 days, the application is deemed approved by the operation of § 120.60, Fla. Stat., which is a licensure statute. However, the charter school statute sets forth the remedy when a school board does not meet the 90-day requirement. Section 1002.33(6)(b)2.a., Fla. Stat., states that if a sponsor fails to act on an application, the applicant may appeal to the State Board of Education as provided in § 1002.33(6)(c), Fla. Stat., which outlines the regular charter application appeal process and referral to the Commission. Thus, the remedy is not an approval of the application by default. Instead, the applicant is permitted to seek review of its application in the next step of the process, which is before the Commission and the State Board. This is unlike the high-performing charter school statute, which specifically states that if the sponsor fails to act on an application within 90 days after receipt, the application is deemed approved. § 1002.331(3)(a)2., Fla. Stat. Based on the foregoing, the Commission did not deem the Application approved as a matter of law and proceeded to review the Application on the merits.

##### **B. Issue Two: Due Process**

The Applicant argues that the School Board violated the Applicant's right to procedural due process by not following its own notice requirements in School Board Policy 2.57, which states that the Superintendent's designee shall notify the Applicant via email of the results of the charter school application evaluation and, if technical or non-substantive corrections and clarifications may cure the deficiencies in the application, the letter may provide seven calendar days to make those changes. The policy also states that substantive changes will not be accepted.

Contrary to this policy, the Applicant argues it was not provided with formal notification of the reasons for denial, was not provided with a seven-day letter to cure non-substantive issues, and was not allowed to modify the substance of its application without withdrawing and resubmitting it, thereby restarting the 90-day timeline. And, although not required, the School Board did not hold a capacity interview in this case (although it is their usual practice to do so), which may have alleviated many of the substantive issues with the Application. At the Commission meeting, the Applicant further explained that while they did attend and provide public comment at the School Board meeting where the Application was considered, the Application was placed on the consent agenda and the School Board did not make any statements or ask any questions before voting. The Applicant also questioned whether the School Board reviewed the entire Application and exhibits.

Based the foregoing, including a review of the record, the failure to follow School Board policy, and the failure to review this Application according to the district's usual procedure,

including the capacity interview, the Commission found that the School Board did violate due process. Moreover, failure to hold a capacity interview and to follow the usual procedures in evaluating this application impacted each of the substantive issues raised in this case. Many, if not all, could have been resolved with better communication between the district and charter staff.

### **C. Issue Three: Education Plan – Target Population and Student Body**

The School Board’s denial letter states that this section of the application partially meets the standard, noting that the Applicant needs to provide updated data showing the need for the school. Because the Applicant had not yet selected a specific site or region in Palm Beach County for the school, the Application used county-wide demographic data from 2019 as a point of reference. In addition, the denial letter states that the Applicant did not provide sufficient data showing what and how specific district schools would be impacted.

The evaluation criteria set forth in the Evaluation Instrument requires a clear description of the students the charter school intends to serve, including any target populations in accordance with Florida law, and alignment of the targeted student body with the overall mission of the school.

Here, the Applicant provided sufficient information regarding its target population and student body. At the Commission hearing, the Applicant explained that its representatives conducted a county-wide survey by visiting places where parents would be with their children, like Chuck E. Cheese, Dunkin’ Donuts, and basketball tournaments. At those locations, they explained that the new school would focus on the arts, sports, and Spanish language education. According to the Applicant, the response during these surveys was overwhelmingly positive. While a specific site has not been selected, the Applicant explained that they were targeting specific areas in the county. The Applicant looked at the district map to see what areas had holes in terms of charter options, where they would not draw from existing charter schools, and identified several geographic locations in Palm Beach County. The explanation about the type of educational programming the Applicant plans to offer and the local outreach and interest surveys was satisfactory to the Commission, even if a specific location has not yet been identified.

Based on the foregoing, including a review of the Application and additional explanation provided at the hearing, there is not competent substantial evidence to deny the Application based on the Target Population and Student Body section.

### **D. Issue Four: Education Plan – Student Performance, Assessment and Evaluation**

The School Board’s denial letter states that the Applicant partially met the standard for this section of the Application. While the Applicant wrote that at least 80 percent of students in Biology will make learning gains, as measured by the results on the Biology End-of-Course (EOC) exam, the district reviewer pointed out that there are no learning gains in Biology and achievement on the Biology EOC should be measured based on students earning a Level 3 score or higher on the exam. Further, the reviewer noted that since the Applicant would be opening its school with grades K-3, the Biology EOC was not applicable and should be removed from the Application. The remainder of this section met the standard for approval, as this was the only comment listed in the district’s evaluation.

At the Commission hearing, the Applicant acknowledged that the reference to Biology learning gains was an error. Based on that clarification, there is not competent substantial evidence to deny the Application based on the Student Performance, Assessment and Evaluation section.

#### **E. Issue Five: Education Plan – Exceptional Students**

The School Board's denial letter identified the "Exceptional Students" section as not meeting the standard. Generally, the district stated that the application did not clearly describe: how the Applicant would ensure appropriate access to students with disabilities; how the Applicant would provide services to students with disabilities; an understanding of the district resource teacher's role; an understanding of the response to intervention and evaluation process; an understanding and commitment to collaborating with the sponsor on placement decisions; and a realistic enrollment projection and sufficient staffing plan.

The evaluation criteria set forth in the Evaluation Instrument requires a clear description of the programs, strategies and supports the school will provide to students with disabilities that will ensure appropriate access and that the school will not discriminate based on disability; enrollment projections for students with disabilities; and realistic staffing plans based on those projections. Applicants must also describe a comprehensive plan for the identification of students with special needs to ensure they are served in the least restrictive environment possible, have access to the general education curriculum and schoolwide educational, extra-curricular, and culture-building activities in the same manner as non-disabled students, receive required and appropriate support services as outlined in their Individual Education Plans (IEPs) and 504 plans, and participate in standardized testing. Further, reviewers look for an understanding that placement decisions will be made based on each student's unique needs through the IEP process.

At the Commission hearing, the district stated the main concern with this section was that staffing of 1.6 FTE was insufficient when compared to the enrollment projection and the list of services to be provided, including cluster programming, support facilitation, and consultation. The Applicant was able to sufficiently address these issues at the hearing, explaining that they would work with the sponsor to serve students with disabilities in accordance with district policies, and state and federal law, and that they would adjust staffing levels as needed. The Applicant also explained that the school would use a random lottery for enrollment, which the district accepted as sufficient. Overall, the Applicant demonstrated an understanding of the legal requirements surrounding students with disabilities, which was an area of concern noted in the district review. Other issues identified by the district in the denial letter were more technical and could be addressed through the charter school contract.

Based on the foregoing, including review of the Application and statements made at the hearing, there is not competent substantial evidence to deny the Application based on the Exceptional Students section.

**F. Issue Four: Business Plan – Budget**

The School Board’s denial letter states that the “Budget” section does not meet the standard because the proposed budget does not represent a realistic assessment of the projected sources of revenues and expenditures. The initial enrollment estimate provided by the Applicant was 288 students, which exceeds comparable schools in Palm Beach County. Without any additional financial backing other than a \$25,000 donation, the district was concerned about relying solely on FTE funds to operate the school, especially if the school did not reach projected enrollment. Further, while the Applicant provided a letter committing to a \$25,000 donation, the district found this insufficient evidence of support because the funds were not guaranteed. Removing the donation from projected revenues further decreased available operating funds. The district reviewers ran alternate budget scenarios using lower enrollment numbers but still had a deficit for the first two years of operations.

At the Commission hearing, the Applicant explained that the \$25,000 donation was only for the planning year and not the total operating amount to start the school. The Applicant further explained that it solicited a \$17.2 million bond with deferred interest and principal payments during the planning year, year one, and year two of operations. Although the budget lacked clarity in some areas and differed in parts between the budget tool and the narrative sections, the Applicant was able to answer questions, provide clarifying information, and demonstrated sufficient knowledge in building a school budget. The Applicant also shared that other charter schools in Palm Beach County have opened with comparable or higher initial enrollment numbers.

Based on the foregoing, including a review of the Application and additional explanation provided at the hearing, there is not competent substantial evidence to deny the Application based on the proposed budget.

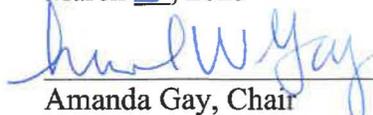
**V. Recommendation**

Based on the factual justifications provided above, the Commission recommends that the State Board of Education find that the School Board does not have competent substantial evidence to support its denial of the Application based on the Applicant’s alleged failure to meet the standards set forth in Florida law and rule for Target Population and Student Body; Student Performance, Assessment and Evaluation; Exceptional Students; or Budget.

**VI. Overall Recommendation**

Based on the foregoing, the Charter School Appeal Commission recommends that the State Board issue a final order overturning the School Board’s denial of the Application by granting the appeal of American Academy of Palm Beach K-8 Charter School.

March 28, 2025

  
Amanda Gay, Chair  
Charter School Appeal Commission